

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35453-2022
Reserved on: 13.09.2022
Pronounced on: 16.09.2022

Shadi Lal ...Petitioner
Versus
Union of India ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Partap Singh, Advocate for the petitioner.

Mr. Rajiv Sharma, Advocate,
Senior Standing Counsel for the respondent-UOI (NCB).

ANOOP CHITKARA, J.

FIR/Crime No.	Dated	Police Station	Sections
72	17.11.2021	NCB Chandigarh Zonal Unit, Chandigarh	8, 20, 29, 27-A & 60 of NDPS Act

1. The petitioner, apprehending arrest for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above had come up before this Court under Section 438 Cr.P.C. seeking anticipatory bail.
2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. On 17th Nov 2021, the NCB recovered 3.540 kgs of charas from an Alto car, owned by the petitioner, and at that time Noor Dass and Rishi Pal were its occupants. After their arrest, they disclosed about the petitioner's involvement in the offence.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. Ld. counsel representing the State opposes bail.

REASONING:

6. The substance involved in the present case is Charas, and weighs 3.540 kilo grams. Entry no. 23 of the table specifying small and commercial quantities specifies the quantity greater than 1 kg as commercial quantity and lesser than 100 grams as small. Thus, the quantity allegedly involved in this case is commercial. Given this, the

rigours of S. 37 of the NDPS Act apply in the present case. The burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

7. In paragraph 5 of the bail petition, the petitioner states that in the disclosure statements, the accused themselves stated that they had borrowed the car from which the charas was recovered from the petitioner; as such, the petitioner is not liable. This explanation is cryptic because once the charas was recovered from the car, the burden is on the petitioner, who owns the car, to explain the reasons for lending, to whom it was lent, its purpose, and the destination, and for how many days? However, the petitioner has preferred to remain silent, ignoring that the State has placed a reverse burden on him under section 37 of the NDPS Act.

8. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 Cr.P.C.

9. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

16.09.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.